

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

B.A.P., a minor child by and through)
her parent, RICHARD PENKOSKI;)
and RICHARD PENKOSKI, as the)
parent and legal guardian of B.A.P.,)
)
Plaintiffs,)
)
v.) Case No. 2:20-cv-00065
)
OVERTON COUNTY BOARD OF) Chief Judge Waverly D. Crenshaw, Jr.
EDUCATION, RICHARD MELTON,) Magistrate Judge Alistair E. Newbern and
STEPHEN HENSON,)
)
Defendants.

MOTION FOR DISCOVERY SANCTIONS DUE TO SPOILATION PURSUANT TO FRCP 37

Come now the Plaintiff, B.A.P., by and through counsel, and move this Honorable Court to grant the following relief pursuant to Federal Rule of Civil Procedure 37. For cause, Plaintiff would show this Honorable Court that Defendants have failed to respond to discovery, and failed to preserve critical electronically stored documents including emails and text messages, and with a culpable mind, destroyed some crucial documents. Such spoliation has caused prejudice to Plaintiff.

WHEREFORE, Plaintiffs respectfully request this Court to grant Plaintiff the relief sought in the accompanying Memorandum of Law, including reasonable attorneys' fees.

Respectfully submitted,

/s/Kristin Fecteau Mosher
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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the forgoing has been sent via CM/ECF system to:

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This 18th day of August, 2023.

/s Kristin Mosher
Kristin Mosher